

Joshua Trigsted  
Oregon State Bar ID Number 06531  
Weisberg & Meyers, LLC  
5025 North Central Ave. #602  
Phoenix, AZ 85012  
602 445-9819, ext. # 216  
866 565 1327 facsimile  
jtrigsted@attorneysforconsumers.com  
Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**MARK AND GAIL HIPPENSTEEL,**

Plaintiff,

vs.

**DERRICK E. MCGAVIC, P.C.,**

Defendant

Case No.:

**COMPLAINT;**

FAIR DEBT COLLECTION PRACTICES  
ACT (15 USC 1692) ; INVASION OF  
PRIVACY

DEMAND FOR JURY TRIAL

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**I. INTRODUCTION**

1. This is an action for damages brought by an individual consumer for Defendant's violations of the following provisions, resulting from abusive behavior against Plaintiff in the course of Defendant's attempt to collect a debt. The federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA").

**II. JURISDICTION**

2. The FDCPA claim arises under 15 U.S.C. § 1692k(d), and therefore involves a "federal question" pursuant to 28 USC § 1331. This court has supplemental jurisdiction over the Oregon State claim pursuant to 28 USC § 1367(a).

### **III. PARTIES**

3. Plaintiff, Mark and Gail Hippensteel ("Plaintiff"), is a natural person residing in Clatsop County, Oregon.

4. Defendant, Derrick E. McGavic, P.C., ("Defendant") is a company engaged in the business of collecting debts by use of the mails and telephone, and Defendant regularly attempts to collect debts alleged to be due another.

### **IV. FACTUAL ALLEGATIONS**

5. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

6. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).

7. All activities of Defendant set out herein were undertaken in connection with the collection of a "debt," as defined by 15 USC § 1692a(5).

8. Within the last year, Defendant used false representations and deceptive practices in connection with collection of an alleged debt from Plaintiff, including reneging on an agreement to delay garnishment proceedings for three months if Plaintiff paid \$50 per month (§ 1692e(10)).

9. As a result of the aforementioned violation(s), Plaintiff suffered and continues to suffer injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

10. Defendant intended to cause, by means of the actions detailed in paragraph 7, injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

11. Defendant's actions, detailed in paragraph 8, was undertaken with extraordinary

disregard of, or indifference to, known or highly probable risks to purported debtors.

12. Defendant's actions, detailed in paragraph 8, constituted an extraordinary transgression of the bounds of socially tolerable conduct

13. To the extent Defendant's actions, detailed in paragraph 8, were carried out by an employee of Defendant, that employee was acting within the scope of his or her employment.

**COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT**

14. Plaintiff reincorporates by reference all of the preceding paragraphs.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA
- B. Actual damages pursuant to 15 USC 1692k
- C. Statutory damages pursuant to 15 U.S.C. § 1692k and
- D. Costs, disbursements and reasonable attorney's fees for all successful claims, and any unsuccessful claims arising out of the same transaction or occurrence as the successful claims, pursuant to 15 U.S.C. § 1692k and,
- E. For such other and further relief as may be just and proper.

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

Dated this 13<sup>th</sup> day of July, 2009,

By: 

Joshua Trigsted  
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Attorney for Plaintiff